

**DEPARTMENT OF FOOD AND AGRICULTURE**

A.G. KAWAMURA, Secretary

Division of Marketing Services  
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October 1, 2004

Rachel Kaldor, Executive Director  
Dairy Institute of California  
1127 11<sup>th</sup> Street, Suite 718  
Sacramento, CA 95814

Dear Rachel:

On September 24, 2004, Dairy Institute of California petitioned the Department to call a hearing pursuant to Food and Agricultural Code sections 61891 through 62079, arguing that there is a differential between out-of-state milk prices and in-state milk prices set by regulation that creates an "incentive for out-of-state bulk milk to move to California." Dairy Institute argues that this alleged incentive must be eliminated "to improve the competitive position of California processors with respect to [out-of-state processors not regulated by California]" so that "[out-of-state processor not regulated by California cannot utilize] his lower raw milk cost to take business away from California-based processors."

CDFA denies the petition. California may not adopt regulations, the motivation of which is to handicap out-of-state shipments of milk into California. Although the decision has been appealed, at the present time CDFA cannot even adopt regulations aimed squarely at in-state processors for the purpose of preventing the practice of "round tripping" to avoid California's pooling obligation. The regulation of interstate commerce in milk is not within CDFA's jurisdiction.

Sincerely,

Kelly Krug, Director  
Division of Marketing Services